

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: ) Chapter 11  
 )  
EASTERN LIVESTOCK CO., LLC, ) Case No. 10-93904-BHL-11  
 )  
Debtor. )  
\_\_\_\_\_

**TRUSTEE'S OBJECTION TO CLAIM 232 FILED BY SAM FOUSEK  
AND NOTICE OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 232 (the "Claim")<sup>1</sup> filed by Sam Fousek ("Mr. Fousek"). The Trustee requests that the Court enter an order denying and expunging the Claim in its entirety. In support of this Objection, the Trustee respectfully states:

**Jurisdiction**

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

**Background**

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11 bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against

---

<sup>1</sup> All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

6. The Court entered an order confirming the *Trustee's First Amended Chapter 11 Plan of Liquidation* [Dock. No. 1490] (the "Plan") on December 17, 2012, and the Plan became effective on December 20, 2012. *See* Dock. No. 1675.

7. Pursuant to the Plan, the deadline for claim objections is April 19, 2013.

### **Request for Relief**

8. By this Objection, the Trustee seeks entry of an order denying and expunging the Claim in its entirety.

9. The Claim asserts an unsecured claim in the amount of \$97,644.47. However, the claim attaches a statement of account for Fousek Trucking, Inc., not Mr. Fousek. The statement of account lists amounts not payable by Debtor. Debtor's books and records do not list any account payable to Mr. Fousek but instead indicate that Mr. Fousek owes the Debtor's estate in excess of \$95,000. The Trustee may file an adversary complaint to collect obligations owed by Mr. Fousek to Debtor.

10. The Trustee therefore objects to the Claim and requests that the Claim be disallowed and expunged in its entirety.

**Notice of Response Deadline**

11. If Mr. Fousek wishes to contest the relief requested in this Objection, Mr. Fousek must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order disallowing and expunging the Claim in its entirety and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

*Counsel for James A. Knauer, Chapter 11 Trustee*

Terry E. Hall (#22041-49)  
Kevin M. Toner (#11343-49)  
Dustin R. DeNeal (#27535-49)  
Kayla D. Britton (#29177-06)  
300 N. Meridian Street, Suite 2700  
Indianapolis, IN 46204-1782  
Telephone: (317) 237-0300  
Facsimile: (317) 237-1000  
terry.hall@faegrebd.com  
kevin.toner@faegrebd.com  
dustin.deneal@faegrebd.com  
kayla.britton@faegrebd.com

Wendy W. Ponader (#14633-49)  
600 East 96th Street, Suite 600  
Indianapolis, IN 46240  
Telephone: (317) 569-9600  
Facsimile: (317) 569-4800  
wendy.ponader@faegrebd.com

**CERTIFICATE OF SERVICE**

I hereby certify that on April 19, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt  
davidabt@mwt.net

Mark A. Robinson  
mrobinson@vhlaw.com

Randall D. LaTour  
rdlatour@vorys.com

Daniel J. Donnellon  
ddonnellon@ficlaw.com

John W. Ames  
james@bgdlegal.com

Jeremy S Rogers  
Jeremy.Rogers@dinslaw.com

C. R. Bowles, Jr  
cbowles@bgdlegal.com

Jeffrey R. Erler  
jeffe@bellnunnally.com

John R. Carr, III  
jrciii@acs-law.com

Stephen A. Weigand  
sweigand@ficlaw.com

Robert Hughes Foree  
robertforee@bellsouth.net

Ivana B. Shallcross  
ishallcross@bgdlegal.com

John Hunt Lovell  
john@lovell-law.net

Edward M King  
tking@fbtlaw.com

Bret S. Clement  
bclement@acs-law.com

John Frederick Massouh  
john.massouh@sprouselaw.com

Kim Martin Lewis  
kim.lewis@dinslaw.com

Deborah Caruso  
dcaruso@daleeke.com

Meredith R. Thomas  
mthomas@daleeke.com

Charles R. Wharton  
Charles.R.Warton@usdoj.gov

David L. LeBas  
dlebas@namanhowell.com

Jessica E. Yates  
jyates@swlaw.com

Laura Day Delcotto  
ldelcotto@dlgfir.com

Ross A. Plourde  
ross.plourde@mcafeetaft.com

Todd J. Johnston  
tjohnston@mcjllp.com

Karen L. Lobring  
lobring@msn.com

Elliott D. Levin  
edl@rubin-levin.net

Sean T. White  
swhite@hooverhull.com

Michael W. McClain  
mike@kentuckytrial.com

James Edwin McGhee  
mcghee@derbycitylaw.com

Jerald I. Ancel  
jancel@taftlaw.com

David Alan Domina  
dad@dominalaw.com

Jill Zengler Julian  
Jill.Julian@usdoj.gov

Michael Wayne Oyler  
moyler@rwsvlaw.com

James E. Rossow  
jim@rubin-levin.net

Steven A. Brehm  
sbrehm@bgdlegal.com

James M. Carr  
james.carr@faegrebd.com

Shawna M. Eikenberry  
shawna.eikenberry@faegrebd.com

James A. Knauer  
jak@kgrlaw.com

Christie A. Moore  
cm@gdm.com

Peter M. Gannott  
pgannott@gannottlaw.com

William Robert Meyer, II  
rmeyer@stites.com

James Bryan Johnston  
bjtexas59@hotmail.com

Judy Hamilton Morse  
judy.morse@crowedunlevy.com

John Huffaker  
john.huffaker@sprouselaw.com

Kelly Greene McConnell  
lisahughes@givenspursley.com

Walter Scott Newbern  
wsnewbern@msn.com

Timothy T. Pridmore  
tpridmore@mcjllp.com

Sandra D. Freeburger  
sfreeburger@dsf-atty.com

John M. Rogers  
johnr@rubin-levin.net

Jay P. Kennedy  
jpk@kgrlaw.com

William E Smith  
wsmith@k-glau.com

Thomas C Scherer  
tscherer@bgdlegal.com

Jeffrey J. Graham  
jgraham@taftlaw.com

Kent A Britt  
kabritt@vorys.com

Jeffrey L Hunter  
jeff.hunter@usdoj.gov

Jason W. Cottrell  
jwc@stuartlaw.com

James B. Lind  
jblind@vorys.com

Anthony G. Raluy  
traluy@fbhlaw.net

Jack S. Dawson  
jdawson@millerdollarhide.com

Terry E. Hall  
terry.hall@faegrebd.com

Erick P. Knoblock  
eknoblock@daleeke.com

Shiv Ghuman O'Neill  
shiv.oneill@faegrebd.com

Eric C. Redman  
ksmith@redmanludwig.com

Allen Morris  
amorris@stites.com

James T. Young  
james@rubin-levin.net

John M. Thompson  
john.thompson@crowedunlevy.com

Matthew J. Ochs  
kim.maynes@moyewwhite.com

T. Kent Barber  
kbarber@dlgfir.com

Kirk Crutcher  
kcrutcher@mcs-law.com

Theodore A Konstantinopoulos  
ndohbky@jbandr.com

Lisa Koch Bryant  
courtmail@fbhlaw.net

John David Hoover  
jdhoover@hooverhull.com

John R. Burns  
john.burns@faegrebd.com

Kayla D. Britton  
kayla.britton@faegrebd.com

David A. Laird  
david.laird@moyewwhite.com

Trevor L. Earl  
tearl@rwsvlaw.com

Joshua N. Stine  
kabritt@vorys.com

Amelia Martin Adams  
aadams@dlgfir.com

Robert A. Bell  
rabell@vorys.com

Melissa S. Giberson  
msgiberson@vorys.com

U.S. Trustee  
ustpreion10.in.ecf@usdoj.gov

Dustin R. DeNeal  
dustin.deneal@faegrebd.com

Jay Jaffe  
jay.jaffe@faegrebd.com

Harmony A. Mappes  
harmony.mappes@faegrebd.com

Wendy W. Ponader  
wendy.ponader@faegrebd.com

Joe T. Roberts  
jratty@windstream.net

Joseph H. Rogers  
jrogers@millerdollarhide.com

Andrew D. Stosberg  
astosberg@lloydmc.com

Christopher M. Trapp  
ctrapp@rubin-levin.net

Jennifer Watt  
jwatt@kgirlaw.com

James E. Smith  
jsmith@smithakins.com

Kevin M. Toner  
kevin.toner@faegrebd.com

Eric W. Richardson  
ewrichardson@vorys.com

Michael Benton Willey  
michael.willey@ag.tn.gov

Robert K. Stanley  
robert.stanley@faegrebd.com

Andrea L. Wasson  
andrea@wassonthornhill.com

Joshua Elliott Clubb  
joshclubb@gmail.com

I further certify that on April 19, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

Sam Fousek  
First National Bank  
106 RR SW  
Wagner, SD 57380

/s/ Dustin R. DeNeal